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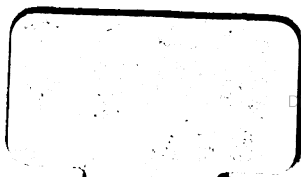
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ENDOWMENTS 1888

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ENDOWMENTS.

AN ADDRESS

DELIVERED BEFORE THE COLLEGE ASSOCIATION OF PENNSYLVANIA,
AT THE UNIVERSITY OF PENNSYLVANIA, PHILADELPHIA,
ON THURSDAY, JULY 5, 1888.

BY

J. G. FITCH, M.A., LL.D.

*Her Majesty's Inspector of Training Colleges, England, and late Assistant
Commissioner under the Endowed Schools Act.*

Timeo dona ferentes.

PHILADELPHIA:
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ENDOWMENTS.

IN a memorable article entitled "Fondations," contributed by Turgot to the French *Encyclopedie* in 1757, but for some unexplained reason—either modesty, or the fear of identifying himself in too pronounced a manner with the enemies of vested interests—not acknowledged by him until many years after, there is a forcible and thoughtful argument respecting endowments and their practical effect. He contends that the motive which leads a founder to perpetuate his own name and his own notions is often to be traced to mere vanity. The testator, he says, is apt to be ignorant of the nature of the problem he desires to solve and of the best way of solving it. He is seldom gifted with a wise foresight of the future and of its wants. He puts into his deed of gift theories, projects and restrictions which are found by his successors to be utterly unworkable. He seeks to propagate opinions which posterity disbelieves and does not want. He takes elaborate precautions against dangers which never arise. He omits to guard against others which a little experience shows to be serious and inevitable. He assumes that his own convictions and his own enthusiasm will be transmitted to subsequent generations of trustees and governors, when in fact he is only placing in their way a sore temptation, at best to negligence and insincerity, at worst to positive malversation and corruption. In fine, Turgot shows by an appeal to history that endowments often foster and keep alive many of the very evils they profess to remedy, and that instead of enriching and improving posterity, they not seldom have the direct effect of demoralizing it.

The *fondations à perpétuité* which Turgot had in view when he wrote this remarkable essay were hospitals, convents, religious houses, masses, academies, professorships, prizes, the encouragement of games and sports, and other forms of public

benefaction. He did not object on principle to large and generous gifts for such purposes, but it was indispensable, he contended, that such gifts should be made and expended in the donor's life-time, and adapted to present needs rather than to conjectural and possibly mistaken forecasts of future events. His whole argument is directed against the perpetuation of rules and ordinances, not against their enactment by benefactors who could watch their operation and see that they were obeyed. Had he lived a century later he might have found the most striking confirmation of his views in the history of endowments in England. A few of these he would have seen were of undoubted public utility, but a great many existed for objects which were utterly mischievous; others were kept up rather in the interests of those who administered them than of those for whom the original charity was intended; others were designed as permanent remedies for evils which in the course of time had wholly disappeared; while others, though contemplating lawful and even laudable ends, sought to attain them by means so antiquated and cumbrous that they were utterly useless. In short, every successive generation has enriched the history of charities with new examples and new warnings. These things are written for our instruction. They ought to enable men better than in the age of Turgot to discriminate between the wise and the foolish, the useless and the mischievous forms of charitable endowment.

For example, there is no more important distinction to be kept in view by the truly charitable than that between avoidable evils and those which are inevitable. Poverty and all its attendant ills belong to the former class. They cannot always be remedied. But in a certain sense they are always preventible. With more skill, more industry, more prudence they might in most cases have been avoided. Yet poverty, as we know, is one of the commonest and most conspicuous of human evils, and it is the one evil to the cure of which charity oftenest addresses itself. A benevolent man is distressed as he sees the evidences of it all around him, and he longs to alleviate it. He is unwilling to see that his gifts will probably produce more poverty than they will heal. For they may

help to diminish, in the class from which the recipients are drawn, the spirit of self-control and independence, and to give a new motive for idleness to the unthrifty and the vicious. It may be that in early life he has experienced the inconveniences of poverty, and in later life the relief and blessing of competence. He desires that others who have reached the later stage of their journey should enjoy, as he has done, the tranquillity and freedom from care which beseeem old age. It may seem ungracious to remind him that he himself has earned his repose by strenuous exertion and self-denial, and that it is this one fact which entitles him to his rest, and gives dignity and appropriateness to it. Yet it is needful that he should consider this, for unless he takes many and wise precautions, his gift may be the means of preventing other men from following his own excellent example; and may, not improbably, be appropriated by idle and shiftless loafers who have never earned the right to honorable retirement, and in whose case old age is without dignity and repose without charm.

There is indeed no form of posthumous charity which appeals more impressively at once to the imagination and to the benevolent instinct than an Almshouse or Home for the aged. Pope says admiringly of Kyrle, the philanthropist of his day, well known as the Man of Ross:

" Behold the market place with poor o'erspread,
The Man of Ross divides the weekly bread;
He feeds yon almshouse neat, devoid of state,
Where age and want sit smiling at the gate."

This pretty picture is one which to the superficial observer is not without attraction, although it cannot fail to bring into some minds the suspicion that the town of Ross, after all, was likely to become the refuge of mendicants from all the country side. However, one sees in many a town in England a quaint and picturesque building, with its quadrangular court-yard, its many gables and its chapel dedicated to the repose and sustenance of old people, the decayed members of a trade, a guild or a municipality. But one enters the precincts and finds too often a querulous and unhappy community, chafing under religious and social restraints which are foreign to all

their previous habits, and distracted by small jealousies and quarrels. The truth is that a community of old people who have nothing in common but their age and their poverty is a wholly artificial product of so-called benevolence. And it is not a satisfactory product, because it is not founded on a true estimate of the needs of old age. Nature would rather teach us that the proper home for old people is among the young and the happy, from whom, on the one hand, they may receive pleasure and cheerfulness, and to whom they may in turn impart what is best in their own experience. This view receives striking confirmation from the history of Greenwich Hospital, a stately institution of which Englishmen have been for two centuries not a little proud. It occupies a lordly site on the Thames. Macaulay designated it "the noblest of European hospitals, a memorial of the virtues of the good Queen Mary, of the love and sorrow of William, and of the great victory of La Hogue." Until recently this great palatial institution sheltered 1,600 old seamen, who were maintained at a total annual cost of about \$500,000, or more than \$300 per man. About half of this sum, however, was found on inquiry to be consumed in expenses of management. The seamen of the better class were unwilling to enter the hospital owing to the domestic restraints which the discipline of the institution imposed, and because they were unwilling to sacrifice the friendships and associations of their lives. When these facts were brought to light, a measure was passed in 1865 enabling the Admiralty to offer to the sailors as an alternative to residence in the hospital a moderate pension, with liberty to reside with their own relatives. The annuity was fixed at \$180. The proposal was at once gladly embraced by two-thirds of the inmates, and it is greatly preferred by all the new pensioners. Since the change was made there has been considerable improvement in the health of the men, and the annual death-rate has been much reduced. The sum saved by abandoning the more picturesque for the more prosaic and practical form of benevolence has nearly sufficed to double the number of seamen assisted by the charity.

There are in England many endowments impressed strongly

with a religious character, and designed for the double purpose of relieving distress and of promoting the interests of the religious body to which the founder happened to belong. One need not go far to seek the reasons for the existence of such foundations. A man who is earnestly attached to his own communion feels himself in special sympathy with the needs of his fellow-worshippers and prefers them to any other recipients of such bounty as he may have to bestow. What more natural than that he should bequeath gifts of clothes or doles of bread to be restricted to those who attend the services of his own church! What more reasonable than for him to suppose that in this way he is not only helping the poor, but that he is also encouraging them to feel an interest in the religious worship which he most approves! But soon a result occurs which he probably has not foreseen. Claimants for his bounty come to the church and profess conformity to its creed, for the sake of obtaining his gifts. I know a London clergyman who found on entering upon his duties a number of poor people regularly coming on Sunday to receive the Sacrament. This seemed to him a gratifying incident in a parish in which there was a good deal of religious apathy and other discouragements. He expressed to the clerk his pleasure at seeing so many poor communicants. "Oh, sir," was the reply, "of course they come for the doles. It has long been our custom to distribute the parochial charities only to those who partake of the Lord's Supper." The new vicar was shocked, and desired it to be made known that for the future attendance at the Sacrament would not be regarded as constituting any claim on the charities, and that absence from it would be no disqualification, but that all future claims on the fund would be inquired into on their own merits, and without any reference to church attendance. From that day not one of these applicants has ever come to church to receive the Sacrament. Cases like this may well remind us how fatal to true religion, as well as to true charity, is any attempt to make the distribution of alms serve even indirectly as a religious propaganda. All bounties and premiums on the profession of belief have an inevitable tendency to profane and vulgarize sacred ordinances, and to

encourage at least insincere religious profession, if not actual hypocrisy and falsehood.

In the history of civil institutions in England, experience has revealed to us the mischief and even the profanity of religious tests. It was during a century and a half a national scandal that the Test and Corporation Acts, and all the formidable penalties of the Clarendon Code, made conformity to the Established Church, signing the Thirty-Nine Articles, or participation in eucharistic services indispensable to the holding of offices. One by one all such Acts have, during the present century, been repealed, and the ancient universities have been freed from the necessity of imposing subscription to the Articles or other religious tests on candidates for degrees. But although Parliament has not hesitated to rectify the mistakes of its predecessors, it has always shown reluctance to interfere with the legislation of 'pious founders,' and accordingly we have seen illiberal and mischievous regulations surviving in charitable institutions long after the good sense and practical experience of statesmen have succeeded in removing similar regulations from the Statute Book. Let me give to you two illustrations of this assertion, the one drawn from my own country, the other from this city.

Early in the eighteenth century there lived in Bristol one Edward Colston, who, at his death, made large bequests to his native city. To this day his memory is revered by the citizens, and pious orgies in his honor are annually celebrated on his birthday. Among other good works he founded a hospital-school. He was a very zealous member of the Established Church, and he was determined that his new foundation should subserve the interests of that body. In his deed he not only gave orders respecting the learning of the Catechism and the diligent attendance of the children at church twice on every Sunday and saints' days, but further ordained that the apprentice fee to be given to a boy on leaving school should be paid only if the master to whom he was bound was in all respects conformable to the Established Church. He further ordered that "in case the parents of any boy in the hospital "shall prevail on him to go or be present at any conventicle

“or meeting *on pretence of religious worship*, or by word or action prevail with or deter any child from attending the public worship according to the religion established in the Church of England, then it shall be lawful for the trustees to expel such child and to take away his clothing.” He proceeds to add several minatory clauses addressed to any possible future trustees who should consent to the education of the boys in any but the fashion thus prescribed, “it being entirely contrary to my inclinations that any of the boys should be educated in fanaticism, or in principles any way repugnant to those of the present Established Church.” These ordinances were carried out in all their rigor from 1708 until the enactment of the Endowed Schools Act of 1869, under which a scheme was framed revoking many of the trusts, and releasing the trustees from any obligation to give effect to those of the founders’ wishes, which were plainly out of harmony with the needs and the circumstances, and, indeed, with the public conscience of the nineteenth century.

In this city of Philadelphia you have a very noble and richly endowed hospital, called Girard College, which, in its own way, illustrates the point now under discussion. When I went to visit it I was asked first if I was a minister of religion, and a copy of an extract from the will of Stephen Girard, the founder, was put into my hands: “I enjoin and require that no ecclesiastic, missionary or minister of any sect whatsoever shall ever hold or exercise any station or duty whatever in the said College, nor shall any such person ever be admitted as a visitor within the premises appropriated to the said College.” Now it is quite certain that if such an ordinance as this had at any time been enacted by the State legislature, or laid down by a Court, it would have been repealed long ago. Common sense, right feeling and experience would have shown its absurdity. But because Stephen Girard is beyond reach, and there are no means of consulting him and convincing him of its absurdity, and because the superstition which attaches inordinate sacredness to founders’ intentions is prevalent in the New World as well as the Old, whatever evil he may have done by this ordi-

nance of his is practically irremediable. And I suppose this splendid foundation will for years to come be deprived of the services and the sympathy of many persons whose aid would be much valued by the trustees if they were at liberty to invoke it; and that regulations will continue to be in force which are a standing and public insult to all the ministers of religion, and which will cause thousands of children at the most impressionable period of their lives to be alienated not only from communion with Christian Churches, but from religion itself.

It frequently happens that a fund is left with strict injunctions that it shall be applied for ever to a very limited purpose; and in due time the fund is augmented till its amount is out of all proportion to the need it is intended to supply. I know a village in England to which a former inhabitant bequeathed the rent of a small estate with directions that it should be annually spent in gifts to the poor widows of the parish. Time went on, a valuable vein of brick earth was found on the estate, the annual income was increased nearly ten-fold; but the population of the village remained stationary. That is to say, it would have remained so but for an extensive immigration of widows from the neighboring towns and villages, who have contrived to dislocate all the social arrangements of the little parish, and to introduce into it a disturbing and not always reputable element. The trustees were embarrassed, and after a long time sought relief from the legislature, with power to enlarge and vary the trusts. But this was a strong and very unpopular measure; the claimants technically entitled under the founder's will, though as a class they were probably lowered and demoralized by his gifts, loudly proclaimed their right to receive them; and long before the trusts were altered grave evils had arisen, and the whole district had learned to look on the endowment as a curse rather than a blessing.

Dole funds and small charities for distribution among the poor have been very favorite forms of benevolence, and they are to be found in hundreds of English parishes. Everywhere they are the despair of the clergy and of all who have the real interests of the laboring class at heart. These gifts, it has

been repeatedly shown, pauperize the people and destroy their sense of shame. One witness adds: "The poor people spend "more time looking after such gifts than would suffice to gain "the same sums by industry." In a memorable speech, in the House of Commons, in 1863, Mr. Gladstone said: "The dead "hand of the founder of an annual dole does not distinguish "between the years of prosperity among the laboring classes "and years of distress: in prosperous years it leads those who "are not in need to represent themselves to be so; it holds out "annual hopes to improvidence, it more frequently excites "jealousy and ill-feeling than good-will, both on the part of the "recipients towards the distributors of the charity, and among "the recipients themselves. For one person who receives substantial benefit from these doles, many feel their demoralizing "effect."

It would be an endless task to enumerate the various forms of charitable endowment which subsequent experience has shown to be either useless or positively harmful. One man provides a house for lepers and an estate the income of which is to be devoted for ever to the maintenance of that house. Another bequeaths a large sum for the redemption of prisoners taken captive by pirates on the Barbary coast. Now it is plain that when it comes to pass that there are no lepers to be found in the country, and that Barbary pirates have ceased to infest the Mediterranean, there arises the need for some new disposition of the testator's bounty. But long after that day arrives it is found that there are persons concerned more or less with the administration of the fund, and interested in its continuance, who plead that perchance the evil provided against by the founder may re-appear, and that meanwhile it is a sin and sacrilege to divert the fund to objects which he did not specify.

There are some forms of posthumous gifts which, tenderly as the English law regards the will of testators, are nevertheless held to be illegal and inconsistent with public policy. A sum of money bequeathed to pay the fines of offenders under the game laws was held to be an invalid charity, because it directly encouraged a breach of the law. Another

bequest providing funds for the political restoration of the Jews to Jerusalem, to their own land, was ruled by the judges to be illegal, because, if carried into effect, it was calculated to create a revolution in a friendly country and to embroil the English with the Ottoman Empire. At the Reformation, and afterwards, many statutes were enacted declaring void all gifts for "superstitious uses," a term which has been variously interpreted within the last three centuries, according to the degrees in which toleration prevailed, but which still extends in England to masses, and to prayers for the dead. On the other hand, so great a sacredness has attached in England to the intentions of founders, that many bequests have been accepted and scrupulously observed, which nevertheless it would obviously be the interest of the community to reject. A foundling hospital offers a direct encouragement to illegitimate births. A permanent dole fund tempts poor people to falsehood or to exaggeration, and its very existence diminishes one of the motives of thrift and self-restraint. An apprentice fund which was once well adapted to the industrial needs of the community continues to exist long after the system of apprentice premiums has been abolished in ordinary trade; and is found to work in such a way as to furnish in disguise a charitable dole to certain parents and to be of no service whatever in qualifying children to become skilled artisans. At a small village in Yorkshire I found an endowment of nearly \$5,000 a year carefully administered in precise accordance with the will of the founder, who two hundred years ago had enjoined his executors to see that the letter R, the initial of his own name, should be conspicuously embroidered on the dress of all the recipients of his bounty. His injunctions were still obeyed. Three old men, three old women and twelve boys walked about the village thus decorated, in pious remembrance of their venerated founder, and on his birthday listened annually to a sermon extolling his merits. In all these, and hundreds of similar cases, endowments characterized from the first by vanity, by want of true foresight, and by their tendency to aggravate the very evils they profess to remedy, have been permitted to survive whatever of usefulness

they originally possessed. *Eripitur persona, manet res.* The property remains, the short-sighted regulations of a past century continue in force; but the intelligent direction, the spirit of genuine philanthropy which would probably have modified these regulations, has disappeared, and the men of this generation are half reluctant, half unable to find an effective substitute for it.

But it is in regard to the history of education in England that some of the most remarkable and instructive lessons have been furnished to us as to the working of the principle of endowment. Here, at least, we seem to be in a region in which there is less danger of abuse. Poverty, destitution, crime, are, it may be admitted, evils, which may be fostered and increased by gifts which are clumsily designed to prevent them. But ignorance is an evil which admits of a remedy, and which he who suffers from it cannot remedy without help. Nobody voluntarily becomes ignorant in order that he may share a gift intended to provide him with knowledge. In establishing universities or schools for the young, and in providing instruction of a quality which the parent would be unable to procure for his children, the pious founder would seem at least to be on safer ground, and to be in a position to render a real service to his country. And as a fact, some of the noblest foundations in England are its universities and public schools. They have, on the whole, originated in higher motives, and their founders have been animated by a more enlightened perception of the public interest than charities of almost any other kind. But a brief glance at their history will show that even here the incurable vices that are wont to breed in all foundations have thriven no less than elsewhere—stagnation, corruption, negligence, rigidity, and a fatal incapacity to adapt themselves to the changed circumstances and needs of successive generations.

The ancient "grammar schools" of England owe their origin mainly to the Tudor period. Before the accession of Henry VIII there were but thirty-five such institutions in England, including Eton, Carlisle and Winchester and a few others, which had been founded as chantries, or were other-

wise connected with ecclesiastical establishments. But it was the dissolution of the monasteries which at once gave the impetus to the establishment of such schools, and furnished the means of sustaining them. And it is a fortunate circumstance for England that the same event which set free large resources for these special uses happened to coincide with the revival of learning, with the Protestant Reformation and with the quickening of intellectual energy and of the spirit of inquiry throughout the land. During successive generations, down to the period of the Civil War, nearly eight hundred "grammar school" foundations were created. One uniform purpose is manifest in the testaments, the deeds of gift and the early statutes by which the character of these schools was intended to be shaped. It is to encourage the pursuit of a liberal education founded on the ancient languages—then the only studies which had been so far formulated and systematized as to possess a disciplinary character. It is almost invariably stipulated in the instrument of foundation that the master is to be a learned man; that he shall be apt and godly, qualified to instruct in good letters and good manners; and that he shall receive as his pupils children of all ranks.

But it is notable that by the end of the seventeenth century a great change seems to have come over the minds of testators and benevolent people in regard to this matter of education. The endowed schools, which owe their origin to this period, aim no longer at the general diffusion of a liberal education, or at the encouragement of all classes in the common pursuit of knowledge and culture. They are for a limited number of the poor, but for the poor alone. They are designed rather to repress than to stimulate intellectual ambition, and, consciously or unconsciously, they were adapted less to bring rich and poor together than to set up new barriers between them. There has been no period of our history in which the social separation of classes has been more marked and more jealous than at the beginning of the eighteenth century. The disappearance of the last vestiges of feudalism, under the legislation of Charles II and of William, synchronized with the steady growth among the upper and middle classes of a kind of social

and religious conservatism, which was none the less strong because the legal securities for its maintenance were passing away. The Act of Uniformity had been designed to crush out Dissent. The Toleration Act of the next generation was in fact a legal admission that this design had failed, and that Nonconformity was a force which must now be recognized. To the resolute Churchmen of the beginning of the eighteenth century, to such men as Edward Colston, of whom I have already spoken, and Robert Nelson, the author of the "Fasts and Festivals," this was a sad and ominous fact, and they and their friends sought to neutralize its effect by more diligent teaching of the liturgy and formularies of the Church of England in schools for the poor. The prevalence of Dissent, it was feared, would imperil the social order. A fear lest the poor should be encouraged by it to forget the duties of their station and to encroach upon the privileges of the rich is very evident in much of the literature and some of the legislation of the age. And there is no more significant token of the changed feeling with which the rich had come to regard the poor than the simple fact that, whereas in the sixteenth century Englishmen founded grammar schools, in the eighteenth they founded charity schools.

Schools of the latter class rapidly multiplied during the last century and the beginning of the present. They are founded on a conception of education partly religious and partly feudal, but almost wholly ignoble and humiliating, and some of them exist to our own day in striking contrast to the grammar school foundations of earlier generations. The charity school children were to be sedulously discouraged from learning more than was supposed to be necessary for the discharge of the humblest duties of life. But the scholars in the grammar schools were either to be the sons of gentlemen, or were to be treated as such. They were to be brought within the reach of the highest cultivation that the nation can afford; they were to be encouraged to proceed from school to the universities; and special provision was always made to tempt into this higher region of learning and gentleness the child of the yeoman and the peasant, in order that, if quickwitted and diligent, he too might be trained up to serve God in Church and State.

Yet upon nearly all these institutions alike the curse of barrenness seems to have fallen. An official investigation, in which it was my duty to take an active share twenty years ago, extended over the whole country and revealed the fact that nearly all these schools, whether designed to furnish a liberal education, or only to give to the "hewers of wood and drawers of water" the humble training supposed to be needed in order to fit them for the meanest duties, were in a lamentable state of decay and inefficiency. The whole body of the testimony obtained by the Commissioners is conclusive: the buildings and school furniture were, in a majority of cases, most unsatisfactory; the number of scholars who were obtaining the sort of education in Latin and Greek contemplated by the founders was very small, and was constantly diminishing; the general instruction in other subjects was found to be very worthless, the very existence of statutes prescribing the ancient learning often serving as a reason for withholding any modern addition to it; and, with a few honorable exceptions, the endowed schools were found, in 1865-7, to be characterized by inefficient supervision on the part of the governing bodies and by languor and feebleness on the part of teachers and taught. I know no more melancholy chapter in English history than is supplied by the ponderous volumes of the Schools Inquiry Commission. It is a history of great resources wasted, of high hopes frustrated, and of means and plans wholly unsuited to the ends proposed to be attained.

When the causes of this decadence came to be investigated, it was found that much of it was owing to the faulty constitution of the trusts. Some were close corporations of private friends, with power of perpetual renewal by co-optation; some were small bodies of vestrymen, others were municipal or trading companies, wholly destitute of educational experience. In some the trustees were too remote from the place to have any vital interest in the welfare of the charity; in others they were so closely identified with the town or village that they were incapable of taking a general view of the interests of the whole district and of its educational wants. In all, they were isolated from each other, self-controlled, and often

practically self-constituted, without motive for activity, or any external aid or guidance as to the form which a wise activity should assume. Above all, they were in every case hampered by traditions, by founders' wills and statutory provisions, which they could not carry out if they would, but which effectually prevented them from making any organic improvement.

And the pressure of the dead hand on the teachers was not less heavy. One can understand and respect the position of a schoolmaster who takes his stand resolutely *super vias antiquas*, who refuses to be beguiled by modern innovations into a neglect of the clearly expressed will of the school founder, and who steadfastly narrows his own aims in the direction of an ideal of scholarship, which he has learned from Ascham, from Milton, or from Busby. And one may view, not without respect, though perhaps with less sympathy, the teacher who, finding the ancient grammar school theory hopelessly untenable, determines to disregard it altogether, and to lay himself out to meet the importunate and not always intelligent demands of a restless and mercantile age. But the saddest part of the experience of the Commissioners appears to have been the discovery that four-fifths of the endowed schools were fulfilling neither the one purpose nor the other; and that the whole machinery, while in some cases producing positive mischief, by occupying the ground and preventing the establishment of good modern schools, was even in the best cases yielding results sadly inadequate to its costliness, and unsuited to the educational wants of the community for whose benefit it was designed.

These evils have been to a large extent remedied. The revelations of the Schools Inquiry Commissioners led, in 1869, to the establishment of a new Executive Commission, with large powers, to alter the schemes of instruction, to reconstruct the governing bodies, to set free funds for providing scholarships and exhibitions, and generally to bring the endowed schools into harmony with modern needs. But it required a very drastic and revolutionary Act of Parliament to effect this—an Act which shocked many prejudices, and was passed, not

without difficulty; which came into rude conflict with many venerable and touching local associations, and which could not in fact have been enacted at all had not the evils of the old state of things become intolerable. But this is not the sort of legislation which a wise statesman prefers or contemplates with any satisfaction. It is not by the periodical removal of a mountain of accumulated abuses, but by such prudent provisions as shall prevent abuses from accumulating that the true interests of the body politic are best secured. And we shall be helped to understand the nature of those provisions if we look a little further into the origin and the practical working of endowments.

It were to inquire too curiously, to peer into the motives in which endowments originate. Mr. Lecky in his "History of European Morals" has shown that in very early Christian ages the substitution of devotion for philanthropy generated a belief in the expiatory or meritorious nature of eleemosynary gifts. "A love of what may be called selfish charity arose," he says, "which assumed at last gigantic proportions, and exerted a most pernicious influence upon Christendom. Men gave money to the poor simply and exclusively for their own spiritual benefit, and the welfare of the sufferer was altogether foreign to their thoughts." And it must be owned that Christian teachers in all ages have done much to encourage the belief that almsgiving and charitable foundations were a profitable form of investment. "Spare not," says Sir Thomas Browne, "when thou canst not easily be prodigal, and fear not to be undone by mercy; for since he who hath pity on the poor lendeth unto the Almighty rewarder, who observes no ides but every day for his payments, charity becomes pious usury, Christian liberality the most thriving industry, and what we adventure in a cock-boat may return in a carrack to us. He who thus casts his bread upon the waters shall surely find it again." Considerations of this cynical kind have been urged with more or less of insistence upon rich people in all ages, and have been found so potent, especially in the near approach of death, that society, notwithstanding its general approval of charity in all its forms, has been

compelled in its own defence to enact from time to time laws of *mortmain*, forbidding the permanent alienation of lands to quasi-religious or charitable uses within a year before the donor's death. But when once the gift has taken legal effect the English law, and still more the English custom, have always been in favor of treating with special sacredness and reverence the intentions and dispositions of the giver. We thus actually elevate to the rank of legislators a body of men who have had no other qualification to exercise such a function than is represented by the accident that they had money to dispose of. Much of the education of England, and many of its most important public and social interests have, during many centuries, been dominated by a code of laws which has never been deliberately sanctioned by the legislature, but is the creation of a number of amateur statesmen, many of whom were not wise, few of whom possessed much political foresight, and all of whom were destitute of any sense of responsibility to the public. Yet it is to this parliament of dead men, self-constituted, heterogeneous and often incompetent, that we have been accustomed to pay as much deference and to assign as much real power as to King, Lords and Commons put together. We have dealt more tenderly with its caprices, we have sought more anxiously to interpret its utterances, and we have been in far greater dread of overruling or revoking its decisions. The explanation of the deep-rooted instinct which underlies this policy is not far to seek. It is the name of benevolence which beguiles our judgment. We have a vague impression that charity, almsgiving and provision for the ignorant or the helpless are very sacred things, and it is exceedingly difficult for us to look with fresh eyes on the question whether after all there is any real sacrifice or self-denial in trying to control the expenditure of our money when it is no longer in our power to enjoy it. Says the Duke to Claudio, in "Measure for Measure:"

"If thou art rich, thou art poor,
For like the ass whose back with ingots bows
Thou bearest thy heavy riches but a journey
And Death unloads thee."

But this is precisely the arrangement to which many a pious founder declines to submit. He refuses to be unladen by death of his wealth or of the influence which wealth gives. He will not leave his successors at liberty to use their own discretion as to the disposal of what will fall to their share, but claims to control it permanently, and thus to purchase a quasi-immortality for himself. He is more concerned to erect a big, impressive institution which may loom large in the eyes of posterity and bear his name than to inquire what is the wisest and most effective way of providing educational or other help for those he most desires to benefit. In a sense not contemplated by the Apostle, charity is thus often made to "cover a multitude of sins."

It is often argued that a man has a right to do what he will with his own, whether what is his own has become so by inheritance or by acquisition. Grant, it is said, that it is for the public interest to leave the privilege of bequest unfettered in relation to relatives or private friends, and you are equally bound to concede that right in respect to any public objects which the testator may prefer. There is, however, an important distinction here. If a man leaves money to me, or even if he leaves me only a life interest in an estate, I am at least at liberty to spend the income as I will. If, in bequeathing an income to me, he also prescribed minutely the way in which I should spend it—if, for example, he desired that I should employ the whole revenue in the purchase of coats of a particular cut and pattern, with his initials embroidered on the collar, I should probably decline to accept the legacy. But when the community or some section of it is the legatee, it is always assumed that it is bound to accept the gift and to observe as a sacred trust, all the conditions, however fanciful, which the giver has chosen to impose. Endowments come to the public on a condition which never applies to private benefactions at all; viz.: on the condition that the beneficiaries shall spend the annual income in the way prescribed by the giver. There is, in fact, no analogy between a private gift or bequest on the one hand, and a permanent endowment for a public purpose on the other. Nor would the equitable conditions of

the two kinds of benevolence admit of fair comparison, unless the State, as representing the community, which is after all the legatee supposed to receive the advantage of the benefaction asserted for herself the twofold right which belongs to every private legatee: (1) To judge for herself whether the conditions attached to the gift are such as to make it worth acceptance; and (2) to spend the income of the endowment in the way which she deems best for her own interest and for meeting its own needs.

This second condition, of course, cannot in practice be fulfilled without undermining the foundation of endowments altogether. If it were, and not until it were, it would be possible to apply the same reasoning *in foro conscientiae* to the validity and sacredness of private and of public bequests. But, as a matter of fact and of human experience, all civilized States are found in different degrees willing to accept gifts from dying men, and to give to the provisions of their deeds of gift the force of law. It is needless to discuss the question of natural right in this case. Probably if we could look on the question with eyes purged from all prejudice and consult Nature herself, she would reply that no man has a right to do more than administer such resources as he possesses; and that when he ceases to live he ceases to be a fitting director of the expenditure derived from property, and ought to leave the control of that expenditure to his heirs, or, failing heirs, to the community as represented for the time being by its responsible government. We may, however, leave to speculative philosophers the discussion of the question, How far is the power of distribution by bequest based on natural right? For practical purposes we know that this power is the creation of law and of expediency, and that all civilized States recognize it and protect its exercise. It is, therefore, open to us to consider, on grounds of expediency and experience only, what are the reasons which justify States in thus protecting the privilege of bequest, and within what limits, if any, that privilege should be restricted.

It is obvious, in the first place, that the State is interested, in encouraging the acquisition of property. Almost every

man who succeeds in amassing a fortune by honorable means must, in the act of amassing it, have put forth power and exercised virtues which have helped to enrich the State. The whole community is concerned to diminish the temptation to idleness on the part of its members, and to put all reasonable bounties and premiums upon those efforts by which wealth is accumulated. And among such bounties and premiums, the legal right to make his wishes operative after his death, and so to secure, what we all value, a little share of posthumous influence, a small fragment of immortality, is one of the most effective. Apart, therefore, from all considerations respecting the ultimate value of a gift to a beneficiary, it is certain that the power to dispose of accumulated property is itself a great incentive to accumulation, and is one which, in her own interest, the State does well to provide.

We have all, as citizens, a further motive for giving a reasonable encouragement to public benefactions. It is good that a man should care about some larger interests than those which concern his own person and family. These have, no doubt, the first claim upon him ; but unless his sympathies extend further, he is a poor creature, and unworthy to be the inheritor of great benefits and great traditions. Our debt to parents cannot, of course, be fully paid to parents ; the largest part of it must be paid to those towards whom in time we shall occupy the place of ancestors. This is Nature's provision for the transmission of nearly all that is good in the world. Gratitude to one's predecessors must in practice be shown by acts which will excite the gratitude of our successors. And the legal sanction given to endowments is one mode of keeping alive this feeling of moral obligation to posterity, this recognition of the fact that each human being is a link by which what is best in the past should be united with what shall be still better in the future. Without such recognition mankind would slowly degenerate. If there be a man who thinks that, as soon as he has done with the world, it matters not what becomes of it, the sooner the world has done with him the better. The "enthusiasm of humanity," which is the product of the Christian faith, and the sense of

duty to posterity which Comte inculcated and which forms one of the cardinal items in the Positivist Code, are alike in this, that they seek to awaken in man some solicitude about the future of his race, and some desire to have an honorable share in the moulding of that future. All our polity, legal and social, all our history and all our experience ought gradually to deepen and enlarge this sense of obligation towards posterity. If it be not deepened and enlarged, then Christianity and civilization alike fail to fulfil their purpose.

Apart from the moral influence on national character and on the spirit of citizenship, which may be maintained by preserving the right of endowment, there is a practical advantage which we cannot overlook. The tendency of all improvement is towards differentiation, not to uniformity. A nation is interested in encouraging new varieties of enterprise and new forms of experiment in regard to the solution of public problems. An autocratic government seeks to mould all institutions after one official pattern; undertakes to deal with such matters as railways, poverty, education and religion in accordance with a fixed plan, and thus *pro tanto* discourages all private initiative. But the government which best suits free men welcomes the co-operation of all citizens in efforts for social amelioration. It has no horror of fads, and crotchets and new types of institutions. It knows well that the originality and inventiveness of private citizens make up a large part of the public wealth; and that out of experiments, which at first appeared to be useless, and even ridiculous, some of the most valuable results have grown. J. S. Mill said: "Since trial alone can decide whether any particular experiment is successful, latitude should be given for carrying on the experiment until the trial is complete. For the length of time, therefore, which individual foresight can reasonably be supposed to cover, and during which circumstances are not likely to have so totally changed as to make the effect of the gift entirely different from what the giver intended, there is an obvious propriety in abiding by his disposition. . . . Within the probable limits of human foresight, the more

“scope that is given to the varieties of human individuality, “the better.”* ”

The energetic plea of Mr. Mill for endowments as a means of perpetuating new, original, possibly eccentric and unpopular, but ultimately valuable forms of public benevolence and educational activity would be more weighty if his argument had not been tested in England by centuries of experience. It was my duty to examine and report upon upwards of one hundred endowed grammar schools before the great reform of 1869, and their most notable feature was their curious sameness. Whatever was striking and novel in the original conception of the founder had long ago disappeared; but the restrictions remained in full force. The founder's directions that the instruction should be confined to Latin and Greek had the effect of furnishing a reason why nothing else should be taught; but in no case did they have the effect of teaching even those languages well. The dead hand everywhere repressed originality, discouraged all effort on the part of teachers to get out of the groove; but in no case was it an instrument of improvement. Variety, enterprise, freshness, enthusiasm, even eccentricity, are all of them, in their way, potent factors in the improvement of education. We cannot afford to dispense with them. The more we can have of them the better. But sad experience leads us to conclude that none of these have been produced by endowments. However enlightened the view of the founders may have been relating to the needs of their own contemporaries, the very fact that those views are embodied in statutes and ordinances renders them difficult if not incapable of modification when new and unexpected circumstances arise. Hence come stagnation, rigidity and a sort of dull decorum, a disposition to rest rather upon the traditions of the past than upon any obligations to the present or the future; a vague notion that in some way an ancient foundation is a more respectable institution than one which has to assert its own right to recognition by making itself useful to the present gener-

* Mill's Dissertations, vol. iv., p. 6.

ation. And all these influences combine to produce not the variety of type which is held in such just esteem by Mill and other abstract thinkers, but a dead level of monotony.

With the teaching of history for our guidance, what are the conditions under which charitable foundations can best be made to fulfil their highest purposes and to become blessings rather than curses to posterity? We cannot repress the instinct which leads founders to endow institutions. A wise statesman would not do so if he could. Nor can we safely put any hindrances in the way of new experiments either in philanthropy or education. But we can deduce from past experience a few practical inferences; and so may be helped to guard against the recurrence at least of some of the more serious evils which seem to be inherent in all *fondations à perpétuité* unless due precautions are taken.

And the first condition to be filled is that the object or purpose of the gifts should be such that it is for the public advantage that they should be received. The community as a whole should in fact exercise the same right that belongs to any private legatee, that is, the right to decline any gift which is clogged by unsuitable and unworkable conditions, or which is designed for a useless object. Private persons, as I have said, could, if a bequest were made to them, choose either to accept or to reject the gift; the State is the only legatee which is ready to accept in the name of the community any gift and to enforce the provisions of any trust, whether such acceptance is or is not desirable *in se*. We need, therefore, clear conceptions as to the kind of gifts which the public are interested in receiving and those which it would be wiser for the public to reject. All gifts which purport to redress the evils of poverty or improvidence need to be received with much caution and misgiving. The provision of funds for the propagation of the testator's opinions by means of preaching, lectures, publications or other forms of intelligent persuasion are legitimate enough, but all forms of charity which are indirectly designed to act as bribes for the profession of particular opinions deserve to be repudiated. Charities, limited as regards their future and permanent destination to founder's kin, or to the inhabitants

of a particular district, are apt to lead to litigation and other mischief. But gifts for the blind, for the sick, for the deaf, for the aged; provision for public instruction in the form of schools, libraries, professorships and the encouragement of research; provision for public recreation in the form of parks, playgrounds, picture galleries and museums—all precautions, in short, against evils and disadvantages which those who suffer from them did not bring upon themselves, and which, therefore, are not likely to be aggravated by the existence of an endowment, are legitimate, and will, under right conditions, always be acceptable gifts to a well-ordered community.

But the true value even of such legitimate provision depends entirely on the mode in which it is made. The first condition of a useful endowment is that the end it purposes to attain is a worthy one, and conducive to the public advantage. But the second is no less important. It is that the means and machinery by which the end is to be attained shall not be too rigidly prescribed. Unless this second condition be fulfilled it is to little purpose that we secure the first. And in practice, the second is more rarely attained than the first. It is far easier to have a clear vision as to the worthiness of an object than to forecast the best of the many different ways by which that object may be accomplished. Now and then we are fortunate enough to receive gifts from testators who have had the wisdom to recognize this fact and to leave large liberty to their successors to adapt those regulations to future needs. Let me choose two examples of this enlightened liberality, one from each side of the Atlantic. From an admirable address by President Gillman before the Johns Hopkins University at Baltimore I take this extract:

“Johns Hopkins devoted his fortune to a University and to a Hospital, intending that as far as medical education was concerned, the two institutions should be the closest allies, but he did not prescribe the conditions under which these two ideas should be developed. He knew that the promotion of knowledge by charity would call for very large outlays in all future generations, but in planning for the remote as well as for the present, he was sagacious enough to perceive that

“methods must change with changing circumstances, and he left to the trustees all the freedom which was requisite for the administration of their work, consistently with adherence to the noble purposes which he had in mind. He provided with equal liberality for the promotion of an educational foundation of the highest name, and for a medical foundation, where the utmost skill should be employed in the alleviation of bodily infirmities. But the mode in which these establishments should be organized he left to the wisdom of others.”

The second example I shall give is that of Josiah Mason, the eminent and successful manufacturer in Birmingham, who devoted a large part of his fortune to public objects. Perhaps I may, without egotism, best tell his story by an extract from my own evidence given a short time since before a Committee of the House of Commons, charged with the duty of inquiring into the working of the Charitable Trusts Acts and the Endowed Schools Acts. The questioner was Mr. C. S. Parker, a distinguished member of the Parliamentary Committee:

1435. Speaking generally, should you say that since 1869 very great public benefit has been conferred by the revision of educational endowments by public authorities?—Enormous public benefit, I should think.

1436. You are aware, of course, that there have been some strong objections made to that kind of interference; for instance, in such interference there has been necessarily much free handling of the endowments, has there not; much change of the purposes to which they were directed?—Yes, no doubt, and alteration of the trusts under which the governors were bound to carry on the work of a school.

1437. And within certain limits departures from founders' intentions?—Necessarily.

1438. There is one general objection made, that such departure from founders' intentions has a direct tendency to discourage similar foundations for the future; should you say, from your experience, that there is such a result from this public revision of endowments?—I should say, that the modern interference with the trusts established by founders *has* probably had the effect of discouraging some of the more selfish and ostentatious forms of endowment, those which the public is least interested in receiving. But I have no doubt that it has given a very remarkable impulse to all the truer and wiser forms of endowment; and perhaps the best proof of that is to be found in the fact that there never have been in the history of England, as far as I know, such large bequests and gifts to public purposes as within the last few years, and since the Charitable Trusts Acts and the Endowed Schools Acts have been in full operation.

1439. If I understand you rightly, your view is, that with the best class of

founders, so far from discouraging, this public supervision positively encourages them to spend their money in endowments?—Certainly, I think the best proof of that is, as I have just said, the very large number of munificent gifts and bequests that have been made within the last few years.

1440. Could you give any striking instances to illustrate that statement?—I may refer to the Peabody Trust; that was not, it is true, for education, but for a very large public purpose; then there were Sir Joseph Whitworth's scholarships; then there is the munificent foundation of Mr. Holloway, at Egham; and there are the very remarkable institutions founded by Sir Josiah Mason, at Birmingham; to say nothing of the large number of splendid gifts that have been made to the Universities since university legislation has been in progress. If the chairman will permit me, I should like to mention one circumstance which seems to me very significant in relation to the question of the honorable member. In 1869, when I was engaged on a special Parliamentary inquiry into the condition of education in Birmingham, the late Sir Josiah Mason said he should like to show me over his orphanage, which he had then very recently founded, and he described to me on that occasion the very bountiful provision he had made for the future maintenance of this institution. He also told me what schemes he then had in his mind for the endowment of the great Science College which has since been established. I said to him then: "Are you not afraid of leaving such large bequests to posterity when you see the modern tendency to overhaul and revise the wills of founders?" He replied: "That is the very reason why I feel such confidence in leaving these sums of money; if it were not that public authorities are likely to be vigilant, and to correct any mistake that I make, and to take care to keep these institutions in full working efficiency, I should feel very much hesitation in leaving such large sums to my successors." It was in this spirit that in the following year, 1870, he introduced into his deed of foundation for the Science College this provision: "Provided, always, that it shall be lawful for the said Josiah Mason at any time during his life, and after his decease for the trustees, within two years after the expiration of every successive period of fifteen years, to alter or vary the trusts or provisions herein contained in all or any of the following particulars." Then he enumerates every one of the particulars, except the general object of the foundation, namely, the improvement of scientific instruction. The obvious intention of this was to take care to provide for the periodical revision and modification of every one of the ordinances and arrangements which he had laid down, stipulating only that the main object of the foundation should be kept in view. I do not want to attach too much importance to a single incident, but I think it significant that this clause occurs in the deed which he executed in the year 1870 for the Science College, and does not occur in the deed which he executed for his orphanage in the year 1868. It was exactly within that interval that all those public discussions and revelations went on in reference to the abuses of ancient endowments and the propriety of revising the founders' wills.

1441. So you think it reasonable to infer that he was partly guided in his latter will by the wish to see public revision from experience of its benefits?—That is certainly the impression I gained from the history of his endowments and from what he said to me.

1442. Do you think that that would be the case with many enlightened and

intelligent founders, that they would be more disposed, instead of being less disposed to give their money, if they thought there would be future public revision? —With all the wisest and most truly benevolent founders, I think it would.

But dispositions of this kind are only made when to benevolent instincts are united wisdom forethought and modesty. And this is a rare combination. You cannot expect it in all testators, or in very many of them. And society must, when these are wanting, take its own measures to supply a substitute for them.

Hence, whether the testator provides for the revision of his ordinances or not, it is absolutely necessary that his institutions should not be permitted to survive their usefulness and to cumber the ground; and to this end the State should have the power to do what in his unavoidable absence it may be presumed that the testator, if he were as benevolent and wise as we like to think him, would himself have done had he lived, *i. e.*, revise his ordinances and adapt them to the changed condition of society. It is a poor compliment to a departed benefactor to assume that, if now living, he would be less amenable to the teaching of experience or less anxious to meet the actual wants of the present than he was in his own time, or than we are in ours. His means and his ends, therefore, should both be subject to periodical reconsideration, and, if necessary, to resolute and drastic reform.

But the most important of all the securities for the efficiency of foundations is the provision for a good and responsible governing body. It is to the wrong constitution of the governing bodies that more than half of the evils of endowments have been due. A testator confides the administration of his fund to a small group of trustees, with power to fill up vacancies as they occur. By this process of co-optation or self-election, the body becomes year by year more narrow, whatever of party exclusiveness belongs to the original trustees becomes stereotyped and rendered permanent, and the body becomes more and more completely out of sympathy with the public and less conscious of its responsibility. In fact, it is not uncommon to hear the members of such governing bodies speak of the fund they administer as *their* property, and of the

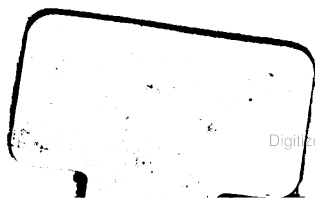
right which they have to administer it in their own way and without interference. In no European country known to me, except England, is such an arrangement legally possible. In France, *e. g.*, a bequest for a public purpose, whether local or imperial, must be confided to the care of a municipality, a university, or some public body known to the law and responsible to it. It is not lawful to create a perpetual private trust. So the truest safeguard for right administration is to be found in such a constitution of the governing body as shall prevent it from becoming a clique, and shall provide for its continual renewal by other means than that of co-optation, and for the permanent presence on it of some persons representing the interests of the classes for whom the benevolence is designed.

Finally, one of the main safeguards which modern legislation has in England sought to provide, though as yet it has only provided it imperfectly, is that of publicity. It has been found indispensable that every endowed institution should annually publish its accounts, and that there should be a periodical and public record made of its efficiency and of the kind and amount of public work which it is actually accomplishing. Whatever difference of opinion may exist as to the abstract right of the government as the representative of the community to control the experiment and to override the intentions of founders, there can at least be no room for doubt on one point: the community for whose benefit the endowment has been designed has in its capacity of legatee the strongest interest in learning what use is made of its inheritance, and an unquestionable right to know it.

Such, then, are the antiseptics by means of which, in England, it has been found that endowments can be kept sweet and wholesome and without which abuses and corruption are inevitable. They are: undoubted public usefulness in the object; elasticity in the means; periodical revision, and, if needful, reconstruction of the scheme of administration; responsibility of governors and trustees to the community for whose benefit the gift was intended; ample publicity, constant vigilance; and, above all, a full recognition of the two principles: (1) that the endowment exists only for the benefit of

the people and has no other right to exist at all, and (2) that the State, as the supreme trustee of all endowments, has the right to make, from time to time, such changes in the destination and management of charity estates as experience and new social needs and circumstances may show to be necessary, and in this way to secure for the community the full benefit of what has been bestowed on it.

I am speaking in a land which cannot yet have experienced the mischief attendant on ancient charitable foundations, but which possesses in a high degree all the materials out of which such foundations are constructed—wealth, public spirit and an honorable desire to be remembered by posterity and to do service to it. In England the man who makes a great fortune often sets his heart on founding a family, on getting a large landed estate and on taking a permanent place for his posterity among the territorial aristocracy. But in this country the possessor of a colossal fortune often conceives the much nobler ambition of founding some great institution for the public benefit, and so of perpetuating his name. I do not presume, in a country whose traditions and experience are so different from those of England, to offer any counsel to the recipients of such gifts. But I have thought it possible that this brief record of some of our English experiences might serve some useful purpose even here. At any rate, some of the main conclusions which I have ventured to enforce are applicable to both the Eastern and the Western hemispheres, to the twentieth century as well as to the sixteenth. They are briefly these: *First*, That the intellectual and social wants of each age differ, and always must differ, from those of its predecessors, and that no human foresight can possibly estimate the nature and extent of the difference. *Next*, That the value of a gift for public purposes depends not on the bigness of the sum given, but upon the wisdom of the regulations and upon the elasticity of the conditions which are attached to the gift; and *Finally*, That every institution which is to maintain its vitality and to render the highest service to successive generations of living men should be governed by the living and not by the dead.



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